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March 12, 1993

VIA TELEFAX 202-273-4529

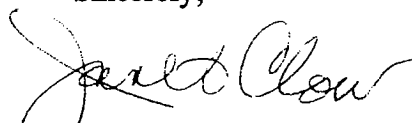
United States Sentencing Commission
Attention: Public Information
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

Dear United States Sentencing Commission:

The purpose of this letter is to express my support for Edwards Bill H.R. 957, Sentencing Uniformity Act of 1993. I have practiced criminal law for the past 17 years and was Chief Public Defender for the State of New Mexico from 1983 through 1985. I believe that mandatory minimum sentences have created injustice throughout the federal system and have clearly created a backlog of civil cases in the State of New Mexico.

I thank you for your consideration of Edwards Bill H.R. 957.

Sincerely,


JANET CLOW

JC/cam

cc: Steve Schiff (via Telefax)

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March 10, 1993

United States Sentencing Commission
ATTN: PUBLIC INFORMATION
One Columbus Circle North East
Suite 2-500 - South Lobby
Washington, D.C. 20002-8002

Re: Comment on Proposed Amendments

To The Honorable United States Sentencing Commission:

I write to you, in as brief a form as possible, to express my comments on the proposed amendments in the sentencing guidelines. The fact that I am an assistant federal public defender for approximately 13 years makes me both a well informed and biased source, of which I am sure you are cognizant.

I applaud and encourage the thought and effort made to amend the loss tables and deal with the problem of more "than minimal planning" insofar as it has resulted in disparate treatments and a considerable amount of litigation. With respect to the additional issues for comment in this section, I definitely believe that the loss tables should have fewer and larger ranges in the lower ends. The loss tables at the higher ends are so large as to be beyond my experience and have no opinion as to whether they need adjustment.

Although more work would need to be done, I would encourage the Commission to modify the definition and approach to a more than minimal planning enhancement as opposed to building it into the loss table or, alternatively, building it into the loss table further from the bottom ranges, maintaining the lesser enhancement as long as possible and perhaps adding a third and additional level increase at the far end.

With respect to redefining more than minimal planning, I do have some suggestions:

1. Build in a two level decrease for spur of the moment or sudden temptation conduct;

2. Do not provide for multiple victim enhancement until the number of victims has reached an appreciably large level i.e. 15 or 20 and perhaps make this enhancement an additional one or two levels at an additionally large number such as 40 or 50;
3. Require, by example, truly more than the ordinary conduct to commit the offense before an enhancement is added. Few if any types of fraud or theft escape the current definition.

The proposal with respect to U.S.S.G. § 3B1.2 (role in the offense) is also an improvement. I would suggest option one is the most preferable of the options under Note 7 reading as follows: Option 1 is preferred because it affords the sentencing judge the most flexibility in determining whether or not to apply the two level adjustment for minor role and, unlike option 2, does not repeat the Application Note position contained in Note 8 concerning burden of persuasion.

The firearms amendments are mostly technical and it would be useful for the Commission to have a period where it does not amend the firearms guideline. I do believe that an appropriate differentiation can be made between different weapons including weapons that fall within 26 U.S.C. § 5845 and its various subdivisions. Whether the differentiation should be made by different offense levels, by placement of the sentence within a the guideline range, or by a Commission-guided departure, depends on the weapon involved. It would seem that a fully automatic machine gun is different from a sawed-off shotgun which is different from a sawed-off rifle which is different from other weapons such as tear gas "pen guns," all of which are prohibited in Title 26.

I have no great criticism of the proposed amendment § 3B1.3 abuse of position of special trust or use of special skill. However, perhaps the time has come to separate these two concepts into separate adjustment sections. It would seem to me be best to leave special trust as a Chapter 3 adjustment with appropriate illustrations in the application notes rather than adding it as a specific offense characteristic in a hit or miss fashion to various guidelines relating to fraud or embezzlement or in general to the embezzlement guideline. Certainly the proposed amendment is superior to the additional issue for comment, particularly as it relates to deleting the example regarding "ordinary bank tellers".

The proposal relating to 5K1.1 - issue 24 - will apply to very few cases if it is intended to exclude "crimes of violence" where that concept includes drug offenses. It also has limited usefulness because of the exclusion of anyone who is not a "first offender".

At least it should include all category I offenders and perhaps all category I and category II offenders. The injustice which it is intended to address is not related or necessarily related to whether the defendant is category I or category VI, but the proposal is at least some improvement over the current requirement for a government motion.

I should add with respect to § 5K that I have, as have other attorneys, experienced cases in which this proposed amendment could well have made a difference.

With respect to the proposal number 25 relating to § 6B1.2 the idea is commendable. Perhaps a stronger word than "encourages" should be utilized. I would suggest a policy statement that requires the government to make such the disclosures at either option point and provides as a ground for downward departure the intentional failure of the government to do so. Experiences has taught that toothless platitudes rarely modify prosecutorial behavior in an adversary system.

* The Commission should act on issue for comment number 40 relating to the mandatory minimum and distinction between cocaine and cocaine base. Significant support exists not only from the interjection of the Commissions expertise, but also other sectors of the criminal justice system for the elimination of this distinction.

Proposed numbers 44, 45 and 46 are all poor ideas, poor policy, and should not result in favorable action. They would increase unwarranted disparities and would not further the purposes of sentencing indicated by Congress.

Proposal number 57 submitted by the Department of Justice should not be acted upon. It is an attempt to accomplish exactly the opposite of what it purports to do. The Department of Justice obviously intends to utilize its proposed amendment, if it becomes the guideline, as the Commission's position which ought to be followed by the Courts in prohibiting attacks on prior convictions. It is my understanding that the Commission wishes to take no position and allow the courts to develop their own procedures. If the Commission does intend to take a position on this procedural question, it should study the matter, invite additional comment, and it is hoped, ultimately recommended that the courts permit collateral attacks on prior convictions utilized to enhance sentences.

United States Sentencing Commission
March 10, 1993
Page 4

I had promised to make this letter brief. There are many other things I could or should say, but will not. I will say that the last two cycles of amendments have been encouraging insofar as they have addressed problems of harshness and not simply been "fixes" of guidelines which appear to be too low to some other components of the criminal justice system.

Sincerely,



SCOTT F. TILSEN
Assistant Federal Defender

SFT/tmw



FIRST NATIONAL BANK

CAPITAL CITY GROUP

P.O. Box 900 Tallahassee, Florida 32302-0900
(904) 224-1171

March 10, 1993

Attn: Public Information
U. S. Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, D. C. 20002-8002

Dear Members:

We support proposed amendments to reduce drug sentences as endorsed by Families
* Against Mandatory Minimums. Please give their representatives every consideration.
They know the problems we families face.

Our 39 year old son was convicted in a drug conspiracy case because a government-
arranged "sting" group discussed locations at his homesite. He received a 10 year
sentence! He is a non-violent first time offender. The real victim is his son, our
totally blameless 3 1/2 year old grandson. We are helping our daughter-in-law raise
this innocent child. We hope for relief on appeal. We have NOT received the justice
in which we were raised to believe. PLEASE help our family and others like us help
ourselves.

Thank you for your attention.

Sincerely yours,

Newell M. and Richard M. Lee
413 East Park Avenue
Tallahassee, Florida 32301
(904) 222-1155

cc: Families Against Mandatory Minimums (202) 457-5790, Julie Stewart
Bill Clinton, United States President
Bob Graham, Florida Senator
Connie Mack, Florida Senator
Pete Peterson, Florida Representative
Clyde Taylor and Judge Griffin Bell, Attorneys

Re: George Martin Croy - 09645-017

Case No. 92-00300405 IAC
U. S. District Court for the Northern District of Florida, Pensacola Division

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CITIZENS UNITED FOR REHABILITATION OF ERRANTS

"A National Effort to Reduce Crime Through Criminal Justice Reform"

United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002-8002

Attention: Public Information

To Whom It May Concern:

I wish to express my full support for proposed amendment #50 to the Federal Sentencing Guidelines for 1993 which reads as follows: "In determining the weight of LSD, use the actual weight of the LSD itself. The weight of any carrier medium, e.g. blotter paper, is not to be counted."

I urge you to specify that it be fully retroactive and that you submit it to the Congress on or before May 1, 1993. There are approximately 2,000 individuals incarcerated in the federal system to date, the majority of which are first-time, non-violent offenders, who have already been unjustly sentenced to outrageous amounts of time in LSD offenses for the sheer weight of carrier mediums.

* Also, I wish to state my support for the Edwards Bill, The Sentencing Uniformity Act of 1993. Please work to repeal the mandatory minimum sentencing law and restore sentencing justice to all.

Thank you.

Sincerely,

William J. Manseau, D.Min.
Chairperson, CURE-NH

WJM/

Executive Director
and Administrator

Charles and Pauline Sullivan

NATIONAL OFFICE:

PO Box 2310
National Capital Station
Washington, DC 20013-2310
202-842-1650, ex. 320

CURE-NH

William J. Manseau, D.Min.
Chairperson
6 Daniel Webster Highway S.
Nashua, NH 03060
Phone: 603-888-3559

March 10, 1993

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Executive Director
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Charles and Pauline Sullivan

NATIONAL OFFICE:

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Washington, DC 20013-2310
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CITIZENS UNITED FOR REHABILITATION OF ERRANTS

"A National Effort to Reduce Crime Through Criminal Justice Reform"

PUBLIC COMMENT OF CHARLES SULLIVAN TO THE UNITED STATES SENTENCING COMMISSION

CURE very strongly opposes "in an exceptional case, however, such conduct may provide a basis for an upward departure" (amendment to Commentary to 1B1.3).

CURE is dedicated to reducing crime through rehabilitation. One of the first steps in this process is the perception by the person convicted that "the system" is fair.

When the potential is there in the Guidelines to use acquitted conduct to enhance a sentence, then I believe the system will be perceived as "rigged".

In fact, in my opinion, this proposed amendment goes against the very spirit of the confirmation hearings of the first commissioners that were conducted in 1985 by Sen. Charles Mathias, the Republican from Maryland.

I shall never forget Sen. Mathias asking the commission-appointees "to raise their hands" if they had ever spent time in jail. For those who had not, he encouraged them to visit the jails and prisons.

By this exercise, Sen. Mathias was encouraging a word that is almost non-existent today, "mercy". Sen. Mathias was indirectly telling the Commission that their attitude should be one of coming down of the side of reducing (not enhancing) the sentence whenever appropriate!

In the same way, I encourage you to support the 33 proposed amendments that would reduce drug sentences especially the one that would eliminate the weight of the carrier in LSD cases.

In this regard, I have attached a copy of a recent letter that we have received. I have removed the name since we are not certain if he wants his name to be known.

Dear **CHARLES+PAULINE**

.....Monday March 1st 1993

Greetings from F.C.I. Danbury. I am currently serving a 128 month sentence without parole, for conspiracy to distribute LSD. I have no history of violence what so ever, nor any prior felony convictions. I have taken responsibility for my crime. I continue to demonstrate, diligently, my whole-hearted conviction to reform my life. I am biding my time wisely, attending Marist College (I made high honors last semester, ..intend to do so again), and the Comprehensive Chemical Abuse Program, among other programs. In 21 months, I've done *all* this--128 months are entirely unnecessary and unfathomable. I *am* an asset to our society, and to the world.

An interesting turn of events has unfolded, and it warrants your *immediate attention!* I have enclosed information that documents and explains the "quirk in the law" that justifies these absurd sentences for LSD offenses, by including the irrelevant weight of carrier mediums. You will also find an excerpt, from the Federal Register, containing 1993 amendments to the Federal Sentencing Guidelines, as proposed by the U.S. Sentencing Commission. See amendment #50--*synopsis of proposed amendment and proposed amendment*--which reads: "In determining the weight of LSD, use the actual weight of the LSD itself. The weight of any carrier medium (blotter paper, for example) is not to be counted." This amendment seeks to rectify a truly gross misappropriation of justice.

This means that prison stays (which are costly to the American taxpayers and public at large, as well as the individuals and their families, in both tangible and intangible ways) could be dutifully shortened, for myself and 2000 other human beings serving 10, 15, and 20 year sentences (with out parole), for the sheer weight of *irrelevant* carrier mediums....This would not be mocking the fact that LSD is illegal, it would simply serve to produce *just sentences*, in which the "time would fit the crime".

I earnestly request that you write the U.S. Sentencing Commission, and voice your support for crucial amendment #50! IT IS ESPECIALLY IMPORTANT FOR YOU TO URGE THAT IT BE RETROACTIVE!! This needs to be done by March 15th, since public hearings are scheduled in Washington D.C., on March 22nd. (See Federal Registrar excerpt).

I hope and pray that you will find the time and understanding to act on this issue,..it's not only for my benefit, but thousands just like me, encompassing all our families and loved ones, as well as all those that will continue to be federally prosecuted for LSD offenses. Please, justice and equity *must* transcend rhetoric!



DAYTON ELECTRONIC SYSTEMS

Roger A. Logan
1605 Bryden Road
Columbus, OH 43205
March 8, 1993

To Whom It May Concern,

Legislation to abolish all federal mandatory minimum sentences was introduced early in the 103rd Congress, by Rep. Don Edwards. This bill will return justice to the sentencing process.

The news media makes you aware of the injustices in this country, but when you come in direct contact with injustices, your morale as a U.S. citizen is devastated. The bitterness of the 50's & 60's that I had has been rekindled. By being a black American, I must say that the backlash of the past 12 years has definitely set the black man behind on the issues accomplished in the 60's & 70's.

My son, Keith Logan, (a first-time offender) was sentenced to 14 years for conspiracy to distribute 8 kilos of cocaine. The undercover officer expressed to me that he knew that Kith was only responsible for conspiracy of one kilo and that if he would testify against someone else, he would have a reduced sentence.

My son confessed to being a part of the sell of one kilo of cocaine the evening the other young men were arrested and never went to trial. His sentence was based on a report submitted by a (young) probation officer and a (young) prosecutor. The reason I emphasize "young" is because the legislatures have taken away sentencing from judges and given it to young inexperienced "white" adults. The judge at her sentencing stated that she knew it was unfair and that black judges have stepped down because of the mandatory minimum sentencing law.

Mandatory minimum sentencing has not worked in the past, and is not working today. This has perpetuated the National debt. The goal should be to produce productive citizens.

Enclosed are statistics of the negative affects that mandatory minimum sentencing has had on America. I urge you to support Rep. Edward's Uniformity Sentencing Bill.

Please reply.

Sincerely,

FAMM FACTS

PRISON OVERCROWDING

* In 1992, America had 1.2 million people behind bars. The United States imprisons more of its citizens per capita than any other country in the world. Per 100,000 people, the United States imprisons 455, with South Africa in second place with 311. In other words, one in every 300 Americans is in prison--not jail, probation, or parole--but in prison. (*The Sentencing Project, Americans Behind Bars: One Year Later, 1992*)

* From 1980 to January 1993, the federal prison population grew by 57,000 inmates--from 24,000 to 81,000. At the current rate of incarceration, by 1995 the federal prison population will reach 100,470, and by the year 2000 there will be 136,980 people in federal prisons. (*Bureau of Justice Statistics, Sourcebook 1991, p. 679*)

* Convictions for federal drug offenses increased 213 percent between 1980 and 1990. (*Bureau of Justice Statistics, National Update, January 1992, p.6*)

* Drug offenders currently make up 57 percent of the federal inmate population, up from 22 percent in 1980. In 1995, nearly 70 percent of federal inmates will be drug offenders. (*Testimony by former BOP director, J. Michael Quinlan, given on February 26, 1992 to House Appropriations Subcommittee*)

* In 1990, more than half of the federal inmates serving mandatory minimum sentences were first offenders. (*Bureau of Justice Statistics, Sourcebook 1991, p.542*)

* Average federal sentences in 1990 for the following offenses were:

Drugs offenses: 6.5 years. Sex offenses: 5.8 years. Manslaughter: 3.6 years. Assault: 3.2 years. (*Bureau of Justice Statistics, Sourcebook 1991, p.532*)

EXCESSIVE TAXPAYER COSTS

* The average cost of incarcerating a federal prisoner is \$20,072 per year, or approximately \$55 per day. (*Bureau of Prisons, State of the Bureau 1991, Summer 1992*)

* To house, feed, clothe, and guard the 81,000 federal inmates, taxpayers pay a hefty \$4.5 million per day or \$1.6 billion per year.

* At the state level, taxpayers cover incarceration costs as high as \$6.8 million per day in California where over 100,000 people are behind bars at an average of \$25,000 per inmate per year. (*The California Republic, July 1991, p.9*)

* States spend more of their budgets on justice programs (6.4%) than on housing and the environment (3.8%) and nearly as much as they spend on hospitals and health care (8.9%) (*Bureau of Justice Statistics, Justice Expenditures & Employment, 1990, Sept. 1992*)

* The federal drug program budget for FY 1993 was \$12 billion. (*Office of National Drug Control Policy*)

* Federal spending for corrections increased 44 percent between 1989 and 1992, from \$1.5 billion to 2.2 billion per year. (*U.S. Budget FY 93, Part 1, p.198*)

* The Bureau of Prisons' authorized budgets increased 1,350 percent between 1982 and FY 1993, from \$97.9 million to \$1.42 billion per year. (*National Drug Control Strategy Budget Summary, 1992, p.212*)

* It costs more to send a person to federal prison for four years than it does to send him to a private university (tuition, fees, room, board, books & supplies) for four years. (*Sources: Federal Bureau of Prisons, The College Board*)

* Figures are not yet available for the tax revenue loss from former tax-paying inmates, or the increased cost of social services needed by inmates' families that were previously supported by the inmate.

PRISON CYCLE

Statistics show that people who have been in prison are more likely to have children who will end up in prison. Long mandatory prison sentences are sowing the seeds for the next generation of inmates.

- * More than half of the juveniles in state and local jails have an immediate family member who is a felon.
- * More than one-third of the adults in state prisons and local jails have an immediate family member who is a felon.
- * Relative to the general population, inmates are more than twice as likely to grow up in a single parent family. Seventy percent of juvenile offenders and 52 percent of adult offenders had one, or no, parent.

(Sources: Bureau of Justice Statistics, Survey of Youth in Custody 1987, Profile of Jail Inmates 1989, Survey of Inmates in State Correctional Facilities 1986)

PUBLIC ATTITUDES

- * toward crime: 61% prefer attacking social problems, 32% want more prisons & law enforcement.
- * toward purpose of prison: 48% think it should rehabilitate, 38% think it should punish.
- * toward spending more money & effort in fight against illegal drugs: 40% prefer teaching the young, 28% work with foreign governments, 19% arrest sellers, 4% help overcome addiction, 4% arrest users.

(Source: Bureau of Justice Statistics Sourcebook 1991, pp.202, 210, 243)

U.S. SENTENCING COMMISSION FINDINGS ON MANDATORY MINIMUMS

* Sentencing power has been transferred from the courts to the prosecutors. The Commission reports that, "Since the charging and plea negotiation processes are neither open to public review nor generally reviewable by the courts, the honesty and truth in sentencing intended by the guidelines system is compromised."

* Mandatory minimum sentences create disparities based on race. Blacks and hispanics are charged with and receive mandatory minimum sentences more often than whites. The Sentencing Commission reports that this racial disparity "reflects the very kind of disparity and discrimination that the Sentencing Reform Act...was designed to reduce."

Blacks, 68 percent of the time.
Hispanics, 57 percent of the time.
Whites, 54 percent of the time.

Sentences for crack cocaine are also 100 times greater than for powder cocaine. Generally, blacks use crack cocaine and whites use powder cocaine.

* Mandatory minimums are counterproductive--low level participants receive mandatory minimums more often than top level kingpins.

Street-level participants, 70 percent of the time.
Mid-level players, 62 percent of the time.
Top-level importers, 60 percent of the time.

* Mandatory minimums create "cliffs" in sentencing based on small differences in weight. Possession of 5.0 grams of cocaine requires a sentence of up to one year, but possession of 5.01 grams of cocaine requires a sentence of at least five years.

COMPARATIVE OFFENSES

Keep in mind: Federal guidelines equate one marijuana plant to one kilo (2.2 pounds) of marijuana, regardless of the size of the plant at arrest. In LSD cases, the guidelines include the weight of the paper, or the sugarcube, or the orange juice in which the LSD is mixed, to determine the total drug weight on which sentencing is based.

Level 24: 4.3 years to 5.3 years

\$80 million worth of larceny, embezzlement, other forms of theft. Kidnapping abduction, unlawful restraint.
176 pounds of marijuana, 800 mg. of LSD, 400 grams (less than 1 lb.) of cocaine powder.

Level 26: 5.3 years to 6.6 years

Robbery with life-threatening injury.
220 pounds of marijuana, 1 gram (half the weight of one dime) of LSD, 500 grams (a little over 1 lb.) of cocaine.

Level 28: 6.6 years to a 8.1 years

Conspiracy or solicitation of murder.
880 pounds of marijuana, 4 grams (almost the weight of 2 dimes) of LSD, 8.7 pounds of cocaine powder.

Level 30: 8.1 years to 10.1 years

Kidnapping, abduction, unlawful restraint with ransom demand.
1540 pounds of marijuana, 7 grams (a little over 3 dimes weight) of LSD, 8.7 pounds of cocaine powder.

Level 38: 19.6 years to 24.4 years

Selling or buying of children for use in the production of pornography.
66,000 pounds of marijuana, 300 grams (approx. 3/4 lb.) of LSD, 330 pounds of cocaine powder.

(Source: U.S. Sentencing Commission Guidelines Manual, November 1, 1992)

SOME ORGANIZATIONS THAT OPPOSE MANDATORY MINIMUM SENTENCES

- **The United States Sentencing Commission.** The Commission found mandatory minimums to be racially discriminative, inefficient, counterproductive, and to have had no effect on the rate of crime in America.
- **The Federal Courts Study Committee**
- **The American Bar Association**
- **Each of the 11 Judicial Conferences of Federal Judges**
- **The National Association of Criminal Defense Lawyers**
- **The American Civil Liberties Union**

Richard D. Besser

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March 4, 1993

Attn: Public Information
U.S. Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

Gentlemen:

I am writing to voice my opinion on the amendments to the sentencing guidelines that are currently under consideration by your Commission.

While I believe that the entire concept of mandatory minimums is abhorrent and unconstitutional, there are three amendments that I believe rise above the others in importance:

1. Eliminate the carrier in determining sentencing in LSD cases.
2. Reduction in the top guideline level from 43-32.
3. Allow Federal Judges to depart from guidelines if he believes the defendant has provided substantial assistance without the approval of the prosecutor.

I am sure you are aware of the inequities in sentencing that result from application of the current guidelines in LSD cases. If not I would offer the following:

One gram of pure LSD (no carrier)=63-78 months, guideline level 26

One gram of LSD on 100 grams of paper=188-235 months, guideline level 36

Reduction of the highest sentence for a first time offender to 121-151 months is a modest reduction at best. Where else in our legal system does a first time offender for a nonviolent crime receive a 10

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year plus sentence, without parole? People who commit armed robbery are let off with less severe sentences. Should the Federal Courts apply sentences that are more severe for nonviolent crimes than the state courts do for violent crimes? I think not.

As to allowing judges to have latitude in sentencing, I would postulate that the justice system was designed to have prosecutors prosecute and judges and juries determine guilt and impose sentences. In Federal drug cases discretion is taken from the judges and given to the prosecutor who's motives are typically self-serving. It appears that in their zealously to apply justice even-handedly they created a system that recognizes no extenuating circumstances and have denied judges the ability to perform their judicial responsibilities.

It appears to me that your Commission could do a lot to correct these and other inequities in sentencing, to say nothing of what you would do for prison overcrowding and the drain on the Country's resources, both financial and human, by passing these amendments.

As someone who has been personally impacted by these guidelines I would be more than happy to offer additional testimony.

Sincerely,



R.D. Besser

cc: Families Against Mandatory Minimums

Henry N. Blansfield, M.D.

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February 26, 1993

United States Sentencing Commission

1 Columbus Circle, N.E., suite 2-500, South Lobby

Washington, DC 20002-8002

Attention: Public information

As a physician currently engaged in providing services to psychoactive drug users in our society and concerned with reducing harm to them, I strongly support amendments to sentencing guidelines that would drastically lessen their length. I am opposed to mandatory lengths of incarceration based upon the type of illicit drug involved in felonious drug selling and its weight. There must be a return to consideration of an arrested individual's prior record and willingness to accept rehabilitation and treatment if a compulsive drug user. Most of all, leniency would seem indicated if the nature of the crime, namely selling, has not directly harmed another. Reforms in the length of sentences need to be retroactive to allow redress for those already imprisoned by previous unfair and inhumane mandatory rules of sentencing.

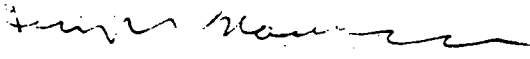
Working as a clinician in the drug/alcohol field for twenty years has led me to believe that chemical dependence is a disease resulting from alterations in neuron receptor - transmitter mechanisms. Paradoxically society criminalizes the use of certain agents acting on the central nervous system while permitting the legal acquisition and consumption of others that have been repeatedly shown to have morbid deleterious health effects, i.e. alcohol and tobacco. This, in itself, is the epitome of hypocrisy.

There is increasing awareness of the adverse impact of present drug laws on society, particularly the urban minority young male population. Racism and the drug war have been addressed by Clarence Lusane in his book "Pipe Dream Blues". A study of the impact of current drug policy, from a crime and corrections standpoint, has been carried out by the Monroe County Bar Association (Rochester, New York and environs) and detailed in a report called "Justice in Jeopardy". This report can be obtained from :

James C. Gocker, Esq.
130 East Main St.
Rochester, NY 14604
(716) 232- 4448

I enclose a copy of a New York Times article dealing with alternative sentencing, a policy whose time has come. Such approaches need to be strongly considered not only because they are dictated by the evidence pointing to the failure of present drug policy involving crime and corrections to succeed in alleviating or reducing the problem, but also because alternatives may be much less costly. The crime and corrections industry will, of course, lobby strongly against any change in the 70% dollar allocation they are now receiving.

Sincerely yours,


Henry N. Blansfield, M.D.

my times 1/20/93

Dealing With Drug Dealers: Rehabilitation, Not Jail

Hynes Tries Alternative Approach Intended to Stop a Problem by Curing an Addiction

By FRANCIS X. CLINES

In 15 years of selling cocaine and heroin in the doorways and abandoned buildings of Brooklyn's pervasive Borough Park narcotics mart, Guillermo Rios developed an entrepreneurial sense of a good deal, even as he indulged his own deep addiction.

Mr. Rios, who once managed seven tidy street outlets, had to hurriedly put his deal-maker's sense to good use 20 months ago when he was caught, fix in hand, selling drugs to undercover detectives. At the arraignment, District Attorney Charles J. Hynes of Brooklyn offered him a deal he never expected:

Either complete an experimental long-term rehabilitation program and be treated like an addict with all the struggle of self-reform, or face mandatory prison time as just another common criminal with all the attendant lost freedom and wasted life.

Limited Experiment

It was a deal that Mr. Rios and more than 200 other addicted drug dealers in Brooklyn have taken gladly but warily over the last two years in an unusual program that is attracting attention from other law-enforcement officials who are intent not so much on declaring a truce in the war on drugs as in attempting a little creative triage.

The Brooklyn program is a limited experiment, but it is showing enough progress at retaining phlegmatic addicts in long-term treatment in lieu of prison that the state has decided to extend it to the other city prosecutors' offices this



Jayna Dapkins/The New York Times

"What I am learning is to finally begin valuing my life," said Guillermo Rios, left, who chose an experimental rehabilitation program after being caught selling drugs. He talked with Ed Hill of Daytop Village in Swan Lake, N.Y.

Continued on Page B2

Dealers' Deal: Rehabilitation, Not Jail

Continued From Page B1

year. Mr. Rios, who is finishing his first year in rigorous rehabilitation, said, "I had already been in jail and that just made me a little crazier."

He remains free, as ever, to walk away from the deal. But if he does, a special pursuit team will try to track him down and put him back on the narcotics court treadmill toward the overwhelming likelihood of serving long years in prison, with no second chance at mercy from Mr. Hynes.

The program is intended to deal with the legions of drug dealers who basically underwrite their own addiction with the money they make selling. Second offenders like Mr. Rios face very tough laws providing mandatory prison time and no easy plea bargains. Prison reformers say such second-felony laws are unrealistically harsh, but Mr. Hynes is exploiting the harshness, in effect, in his new carrot-and-stick program.

Half the states have comparable drug crackdown laws mandating prison time for repeat offenders and these have been instrumental in the mushrooming of prison populations and expenses across the nation through a high turnover in drug arrests. This growth has not necessarily focused on the more violent criminals who are at the heart of the public's alarm and the politicians' enactment of harsh remedies.

Up to 2 Years

With prisons becoming glutted, some criminal-justice officials are looking for cheaper, more productive alternatives. Few new programs besides Mr. Hynes's Drug Treatment Alternative to Prison offer such a powerful combination of seduction and penalty to try to change addicts who have been carefully screened and not merely to detain them behind bars until they come out to deal again.

Under the program, arrested dealers who spend up to two years completing private drug-rehabilitation programs like Daytop Village and Samaritan Village are rewarded by having the drug charges for which they were arrested dropped; the arrested dealer is free to pursue a new drug-free life with one less felony blot.

But those who yield to the temptation to walk out on the rehabilitation program's rough self-examination, job training and other responsibilities immediately face the full force of New York State's predicate felony law, which mandates prison time for second-time drug offenders, with little leeway afforded sentencing judges.

For public officials, the cost of treatment versus incarceration of nonviolent drug offenders is increasingly important. The Brooklyn program costs about \$17,000 a year for each dealer in treatment, less than

half the cost of imprisonment, about \$40,000. But the real choice in public policy is not that simple, and alternative approaches to prison can prove risky for responsible officials.

'A Terrifying Experience'

An assistant district attorney, Susan A. Powers, recalled the initial anxiety that the program, rooted in Mr. Hynes's unusual use of his case-disposal powers, might prove to be a gamble that failed, with addicts scandalously fleeing in droves. "It was a terrifying experience," she said. "But the results so far have been rather amazing." Ms. Powers pointed out that 70 percent of the addicts admitted to the program have stayed, versus a rate of about 13 percent nationally in voluntary drug-treatment programs.

"Retention is the key to success, studies show, even if you're forced to enter a program," she said. "They can change you if they can keep you."

'This is the hardest thing an addict's going to do,' a director says.

providing the programs are as long term and experience proven as Daytop and Samaritan.

"This is actually a lot harder for them than jail," said Ed Hill, director of the privately run Daytop Village center in Swan Lake, in the Catskills, where Mr. Rios, ever a manager, has risen in 11 months to be the chief administrator for running the woodshop and its staff.

"This is the hardest thing an addict's going to do because it represents true and total change," Mr. Hill said. "No more the swaggering tough guy with the .45 pistol in his belt or the 9-millimeter in his boot. We're talking complete overhaul."

He stressed that society was right to want its streets cleaned of the plague of addict-dealers like Mr. Rios but that the real issue, finally faced fully by this program, was whether to try to change them or to merely guarantee a deeper problem with prison-toughened criminals.

Mr. Rios, a trim, watchful man with more than half his 29 years of life already invested in drugs, said pragmatism was as effective as idealism in Mr. Hynes's program. He conceded that he had jumped at the program mainly to avoid prison and had thought he could ease through and feign dedication when needed, as with other more casual programs that he had gone through inside prison and out.

Mr. Hill, a Daytop graduate from

Brooklyn's street-drug pathology of two decades ago, smiled, noting that avid peer-pressure is only one tool intended to root out routine fakery. Mr. Rios said he eventually found change and growth in himself necessary to stay in the program.

"Here, instead of doing 7 to 15 in prison, I'm not even doing time," he said gratefully. "I'm learning a lot about myself, what a threat I am to me and to others. What I am learning is to finally begin valuing my life."

Of the 30 percent in dropouts from the program, Mr. Hynes's pursuit squad, put together especially for this program, has arrested 95 percent to resume the court process. Of 64 returned to court, 51 received felony prison terms and 11 cases were pending as of the latest tally in November. Only two received misdemeanor treatment — a tribute to the original selection of firm second-felony drug cases by the District Attorney to guarantee the harsh stick needed to complement the program's inviting carrot.

Long-range effects are yet to be measured since only the first 14 graduates have returned to their communities. "I had my hand on the door-knob several times, ready to walk," said Angelo K., a 30-year-old graduate who completed the program's residential and re-entry programs, learning to be a diesel mechanic in the process. Through the program he has obtained a job in his old neighborhood, Sunset Park, still as drug-infested as when he began dealing as a 14-year-old.

'Finally Be an Adult'

"It was like I was frozen in my childhood back then," Angelo said. "The program resumed my life. I feel like I lived the rest of childhood in a year and sped forward to finally be an adult. Basically, they taught me we're not bad people," he said of the Samaritan Village program and his fellow addicts aiming for change.

Despite the program's modest enrollment, its surprising retention rate among the notoriously unreliable addict community is encouraging enough to attract praise from the office of Gov. Mario M. Cuomo and a decision to expand it to the other city prosecutors. A \$700,000 state allocation of Federal anti-drug money will help finance 300 new residential treatment slots beyond the 200 in the Brooklyn program.

"The future of this approach is very dependent on the available treatment slots," Ms. Powers stressed. "There are only something like 15,000 full-scale residential slots available nationally — amazingly small — and maybe two-thirds of them are in New York and California. If the Clinton Administration is serious with its talk about changing the 70-30 approach of law-enforcement-to-treatment to something more of a 50-50 breakdown, then this program and others like it have a future."